IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION CASE NO. 3:23-CV-245-MOC-DCK

SOMERO ENTERPRISES, INC.,)
Plaintiff,)) <u>ORDER</u>
v.))
TOPP & SCREED S.A., and INDUSTRIAL FLOOR CONSULTING, INC.,))
Defendants.)))

THIS MATTER IS BEFORE THE COURT on "Defendants Topp & Screed S.A. And Industrial Floor Consulting, Inc.'s Motion To Stay Litigation Pending *Inter Partes* Review" (Document No. 39) filed November 22, 2023. This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motion and the record, the undersigned will grant the motion.

By the instant motion, Defendants seek to "stay this litigation pending *inter partes* review ("IPR") proceedings with respect to the sole patent in-suit, U.S. Patent No. 8,038,366 ("the '366 Patent")." (Document No. 39, p. 1). Plaintiff filed a "Memorandum In Opposition To Defendants' Motion To Stay..." (Document No. 42) on December 13, 2023. However, Plaintiff recently filed a "…Notice Of Consent To Defendants' Moton To Stay..." (Document No. 53).

Now, Plaintiff asserts "[g]iven that the result of the IPR stands to simplify, inform, and/or obviate allegations and issues regarding the '366 Patent and in a potential trial in this action, the parties believe that it is in the interest of justice and judicial economy to stay this action pending the final outcome of the IPR." (Document No. 53).

IT IS, THEREFORE, ORDERED that "Defendants Topp & Screed S.A. And Industrial

Floor Consulting, Inc.'s Motion To Stay Litigation Pending Inter Partes Review" (Document No.

39) is **GRANTED**.

IT IS FURTHER ORDERED that this matter is STAYED until a final written decision

is issued on the underlying *inter partes* review.

IT IS FURTHER ORDERED that the parties shall file a Joint Status Report on August

20, 2024, and every ninety days (90) thereafter, until a final written decision is issued on the

underlying inter partes review.

SO ORDERED.

Signed: May 17, 2024

David C. Keesler

United States Magistrate Judge